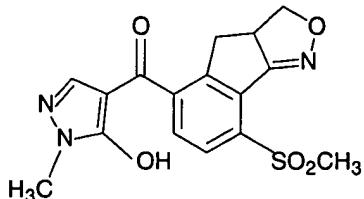


R E M A R K S

Claims 1 to 16 and 18 to 23 as set forth in Appendix II of this paper are now pending in this case. Claim 17 has been canceled, Claims 1 to 16 and 18 to 21 have been amended, and Claims 22 and 23 have been added, as indicated in Appendix I of this paper.

Applicants have made some editorial changes in Claims 1 to 16 and 18 to 21, and Claim 17 has been canceled in view of the provisions of Sections 101 and 112, ¶2. Additionally, applicants have entered new Claim 22 which is drawn to the group of compounds I which is herewith elected by applicants consonant with the Examiner's invitation to identify a group outside of the groups identified by the Examiner. New Claim 23 which has also been added by applicants is drawn to the compounds defined in Claim 22 wherein R¹⁰ differs from N-bonded heterocyclic moieties. No new matter has been added.

As a particular species within the group of compounds elected by applicants' and defined in Claim 22, applicants' herewith respectfully elect compound No. 2.1 of Table 2, which has the following formula:



The Examiner asserts that applicants' claims lack unity of invention under PCT Rule 13 because "the compounds defined in the claims lack a significant structural element qualifying as the special technical feature that defines a contribution over the prior art". Favorable reconsideration of the Examiner's position and traversal of the restriction requirement is respectfully sought in light of the following remarks:

Noting in PCT Rule 13 or in the guidelines for determining unity of invention under that rule suggests or implies that chemical compounds which are claimed in an international or national phase application are required to have a single special technical feature which defines a contribution over the prior art. To the contrary, PCT Rule 13.2 which sets forth circumstances in which the unity of invention requirement is met, refers to "one or more of the same or corresponding special technical features" which have to be involved in the

technical relationship between inventions which are claimed in the international application, and further defined the special technical features of a claimed invention as those technical features which define the contribution which each of the inventions, considered as a whole, makes over the prior art. The Examiner will note that PCT Rule 13, as well as the guidelines in the PCT Administrative instructions, in all instances refer to one or more special technical features rather than requiring a single technical feature in order for the unity of invention requirements to be met.

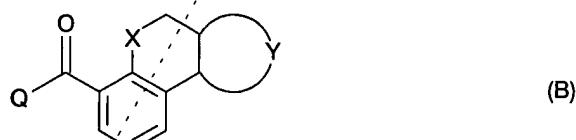
The Examiner contends that applicants' compounds lack the requisite special technical features which define a contribution over the disclosure of *Tseng et al.* (WO 97/19087) and *Zhang* (EP 860 441). The referenced prior art relates to compounds of the structural type (A) and (A'):



The respective prior art structures are characterized in that

- a bicyclic ring system is fused with the phenyl ring of the benzoyl grouping in 3 and in 4 position;
- the carbonyl moiety of the benzoyl grouping is located in para position relative to the group "X"; and
- the "third" of the three rings of the tricyclus is on the same side of the molecule relative to the carbonyl group (ie. relative to an axis bisecting the first and the second ring of the tricyclus).

In contrast to the generic structures of the prior art compounds, applicants' compounds are of a structural type (B)



wherein

- the bicyclic ring system is fused with the phenyl ring of the benzoyl grouping in 2 and in 3 position;
- the carbonyl moiety of the benzoyl grouping is located in ortho position relative to the group "X"; and

- the "third" of the three rings of the tricyclus is on the opposite side of the molecule relative to the carbonyl group (ie. relative to an axis bisecting the first and the second ring of the tricyclus).

Accordingly, applicants' compounds have three special technical features which define the contribution which each of the compounds, considered as a whole, makes over the prior art. The circumstances outlined in PCT Rule 13.2 are therefore met by applicants' compounds.

The same applies *mutatis mutandis* where applicants' compounds of formulae VI, IX, XV and XVI are concerned with the difference that the group R^{17} , L^4 , NH_2 and CN is the point of reference rather than the carbonyl group of the benzoyl moiety. The foregoing, therefore, equally applies where the intermediate compounds which are defined in applicants' Claims 18 to 21 are concerned. In this context, applicants respectfully refer to the guidelines provided in Sections (g) and (h) of the PCT Administrative Instructions, Annex B, Part 1, which further corroborate that applicants' claims meet the requirements of unity of invention. Favorable action is respectfully solicited.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,
KEIL & WEINKAUF



Herbert B. Keil
Reg. No. 18,967

1350 Connecticut Ave, N.W.
Washington, D.C. 20036
(202) 659-0100

Encl.: THE CHANGES IN THE CLAIMS (Appendix I)
THE AMENDED CLAIMS (Appendix II)

HBK/BAS